



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMUNICATIONS DIVISION, PATENT AND TRADEMARKS
WASHINGTON, DC 20514
WWW.USPTO.GOV

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 830,527	04 26 2001	Christian Fabry	P-1027	9706

7590 04 23 2002

Scott R Cox
Lynch Cox Gilman & Mahan
Suite 2200
400 West Market Street
Louisville, KY 40202

EXAMINER

AFREMOVA, VERA

ART UNIT	PAPER NUMBER
----------	--------------

1651

DATE MAILED 04 23 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/830,527

Applicant's

Fabry et al.

Examiner

Vera Afremova

Art Unit

1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 22, 2002
- 2a) This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-41 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 7-41 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper/No.s |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper/No.s | 20) <input type="checkbox"/> Other |

Art Unit: 1651

DETAILED ACTION

A Claims ¹⁷~~1~~-41 are pending and subject to restriction requirement.

Election/Restriction

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

A Group I, claim(s) ¹⁷~~1~~-39, drawn to a process of making an activated layered silicate by microbial treatment.

Group II, claim(s) 40, drawn to an activated layered silicate treated by microorganism.

Group III, claim(s) 41, drawn to a method of decolorizing oils with an activated layered silicate.

The inventions listed as Groups I, II and III to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature that define a contribution over the prior art for the following reasons: Unity of invention is broken because the claimed product such as an activated layered silicate or a layered silicate activated by treatment with microorganism has been known in the prior. For example: see DERWENT abstract for JP01126393 (11/10/1986) which teaches an activated layered silicate

Art Unit: 1651

such as silicate bentonite composition treated with microbial culture belonging to fungi and bacteria wherein the product is used for soil treatment and promoting plant growth.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Information Disclosure Statement

The information disclosure statement filed 7/30/2001 and 1/22/2002 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

The IDS filed 7/30/2001 is missing copies of a foreign patent [IDS-4] and publications IDS-5 and IDS-6. The references IDS-5 does not indicate pages of that portion which caused it to be listed. The IDS filed 1-22-2002 is missing copies of both cited foreign patents [IDS 5 and 6].

Art Unit: 1651

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (703) 308-9351. The examiner can normally be reached on Monday to Friday from 9:00 to 5:30.

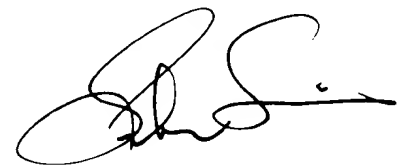
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Vera Afremova,

Art Unit 1651

April 8, 2002.

A handwritten signature in black ink, appearing to read 'Sandra E. Saucier', with a stylized flourish at the end.

SANDRA E. SAUCIER
PRIMARY EXAMINER